IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10865 of 1994

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHANUPRASAD B VAGHELA

Versus

JOINT SECRETARY

Appearance:

1. Special Civil Application No. 10865 of 1994

MR DR BHATT for Petitioner No. 1

Ms. Manisha L. Shah AGP for Respondent No. 1-4

MR JIVANLAL M PATEL for Respondent No. 1

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 18/10/2004

ORAL JUDGEMENT

1. This petition under Article 226 of the

Constitution of India challenges the order of the District Superintendent of Police, Banaskantha, at Palanpur, dated 5th July 1989, whereby the petitioner was reverted to the post of Constable (Unarmed) from the post of Head Constable, Grade II (Unarmed) and he was placed in the lowest minimum pay-scale of the police constable for a period of two years and the period of suspension was treated as such. Against the order dated 5th July 1989 passed by the District Superintendent of Police, Banaskantha, the petitioner filed an appeal before the Deputy Inspector General of Police and the said appeal was also dismissed by order dated 6th February 1990. Against the said order dated 6th February 1990 passed by the Appellate Authority, the petitioner filed a Revision Application before the Department of Home, State of Gujarat, Gandhinagar, and, by order dated 23rd May 1994, the said Revision Application also came to be rejected by the Joint Secretary, Home Department, Gujarat State.

2. Against the concurrent findings of the Appellate Authority and the Revisional Authority, the petitioner has filed this petition challenging (i) the order dated 5th July 1989 passed by the District Superintendent of Police, Banaskantha, (ii) the order dated 6th February 1990 passed by the Appellate Authority, and (iii) the order dated 23rd May 1994 passed by the Revisional Authority, on the grounds that the orders are against the provisions of principles of natural justice; necessary documents asked for by the petitioner during the course of departmental enquiry were not given to him; the petitioner was punished for a trivial charge and he had not committed any misconduct as alleged; the witnesses were not neutral, and the imposition of penalty is disproportionate to the alleged misconduct.

3. The respondents filed affidavit in reply denying all the allegations levelled against the concerned Authority. Learned Assistant Government Pleader, Mrs. Shah, has submitted that a very lenient view was taken and, against the charge levelled, a punishment of reverting the petitioner to the post of Constable (Unarmed) from the post of Head Constable, Grade II (Unarmed) was imposed, and he was placed in the lowest minimum pay-scale of the police constable for a period of two years. She has further submitted that the extraordinary power under Article 226 of the Constitution may not be exercised by this Court against the concurrent findings given by all the three Authorities below, more particularly when after the fulfledged enquiry, the punishment has been imposed. She has further submitted that the petitioner belongs to the disciplinary force and

no interference is called for.

4. I find force in the submissions of the learned Assistant Government Pleader, Mrs. Shah. From the record, it appears that, against the charge of abusing superior officers and not obeying the order of the superior officers, the only punishment, which is imposed upon the petitioner, is reversion from the the post of Head Constable, Grade II (Unarmed) to the post of Constable and reducing his pay-scale to the lowest minimum pay-scale of the police constable for a period of two years. Under the circumstances, it cannot be said that the orders passed by the Authorities below are unreasonable or arbitrary or violative of principles of natural justice, which require invocation of the extraordinary power under Article 226 of the Constitution by this Court against the concurrent findings of the Authorities below. In this view of the matter, the petition deserves to be rejected and it is hereby rejected. Rule is discharged with no order as to costs.

(Anant S. Dave, J.)
(swamy)